

Judiciary

PUBLIC 509 **An Act To Clarify the Landowner Liability Law with Regard to** **LD 787**
EMERGENCY **Construction and Maintenance of Snowmobile and Other Trails for**
 Recreational Use

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P CARR	OTP-AM	S-356

Public Law 2003, chapter 509 amends the landowner liability law to provide protection to any legal entity that constructs or maintains trails or other improvements for public recreational use. The language is not limited to snowmobile trails and covers any type of recreational trail.

Public Law 2003, chapter 509 was enacted as an emergency measure effective January 9, 2004.

PUBLIC 510 **An Act to Correct Errors and Inconsistencies in the Laws of Maine** **LD 274**
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-593 H-596 NORBERT

Public Law 2003, chapter 510, became law without the Governor's signature on January 11, 2004. It corrected technical errors and inconsistencies and made several substantive corrections. See also LD 1897 for corrections to chapter 510.

PUBLIC 518 **An Act To Amend the Uniform Federal Lien Registration Act** **LD 1756**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SIMPSON	OTP	S-375 PENDLETON

Public Law 2003, chapter 518 makes the necessary changes to the Uniform Federal Lien Registration Act as requested by the Internal Revenue Service to update and clarify outdated language and to allow the Internal Revenue Service to file notices of federal tax liens electronically with the Secretary of State.

PUBLIC 523 **An Act To Amend the Laws Relating to Nonprofit Corporations** **LD 1761**

Judiciary

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BULL	OTP	

Public Law 2003, chapter 523 eliminates duplicate filings with the Registry of Deeds for documents filed by nonprofit corporations formed under the Maine Revised Statutes, Title 13, chapters 81 and 93. Public Law 2003, chapter 523 also streamlines the filing requirements with the Secretary of State to be consistent with the filing requirements for other nonprofit corporations formed under Title 13-B.

PUBLIC 525 **An Act Regarding the Number of Jurors Required To Render a** **LD 1652**
EMERGENCY **Verdict in a Civil Trial**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	OTP-AM	H-673

Public Law 2003, chapter 525 requires that at least 2/3 of the jurors participating must unanimously agree in the verdict. Only in the event that the jury is reduced to 7 members would a verdict be decided by the unanimous votes of fewer than 6 jurors.

Public Law 2003, chapter 525 was enacted as an emergency measure effective March 3, 2004.

PUBLIC 538 **An Act To Clarify the Standards for Granting a Name Change** **LD 1797**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS J	OTP-AM	H-682

Public Law 2003, chapter 538 allows a Probate judge to require a criminal history record check, motor vehicle record check or credit check for any person who seeks a name change and to assess the cost of any such check against the person. It also prohibits a name change if the judge has reason to believe the change is for fraudulent purposes or against the public interest.

Chapter 538 is consistent with In re Reben, 342 A.2d 688 (Me. 1975) and is not intended to restrict the authority of the Probate Court.

PUBLIC 562 **An Act Regarding Child Support Collection Practices** **LD 1771**

Judiciary

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SIMPSON HATCH PH	OTP-AM	H-721

Public Law 2003, chapter 562 prohibits a person who enters into an agreement with another to collect child support from charging a fee based upon current or future child support payments. Under a contract for the collection of child support that provides for a contingent fee, the fee may be based only upon unpaid past child support arrearages that are unpaid at the time when the contract is signed. It also provides that a person who enters into an agreement with another to collect child support is subject to the provisions of the Maine Fair Debt Collection Practices Act. It requires a detailed written contract between a support obligee and a private collector and prohibits penalties if the support obligee terminates the contract. It provides that a person who enters into an agreement with another to collect child support can not collect a fee for payments collected primarily through the efforts of a governmental agency.

PUBLIC 575 An Act To Permit Background Checks on Prospective Adoptive LD 1754
Parents

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CURLEY	OTP-AM	H-728

Public Law 2003, chapter 575 gives the Department of Human Services the authority to use the same basic procedure available to the Probate Court to conduct background checks earlier in the adoption process.

PUBLIC 594 An Act Making Amendments to the Uniform Commercial Code LD 1786
Covering Provisions Dealing with Negotiable Instruments and Bank
Deposits and Collections

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'NEIL MAYO	OTP-AM	H-772

Public Law 2003, chapter 594 amends Articles 3-A and 4 of the Maine Uniform Commercial Code to include warranties concerning "telephonic" and other checks that do not bear the consumer's signature. Chapter 594 shifts the risk of loss for processing this instrument to the depository-collecting bank, which is in the best position to prevent its introduction into the check collection system.

PUBLIC 599 An Act To Make Emergency Changes to Recent Law LD 1897

Judiciary

EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT PENDLETON		

Public Law 2003, chapter 599 corrects errors and inconsistencies in the laws of Maine, some of which were created by the delayed effective date of the First Regular Session Errors Bill, LD 274, now Public Law 2003, Chapter 510. Although the bill was not referred to a committee, the Judiciary Committee reviewed its content.

Non-technical changes include amendments to the CNA laws.

Public Law 2003, chapter 599 was enacted at an emergency measure effective April 6, 2004.

PUBLIC 618 An Act To Enact the Uniform Trust Code LD 921

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	OTP-AM	H-795

Public Law 2003, chapter 618 amends the State's trust laws adopting a slightly revised version of the Uniform Trust Code. Uniform Comments and Maine Comments are included.

The Maine Uniform Trust Code is effective July 1, 2005.

Chapter 618 also amends the Probate Code concerning different forms of health care powers of attorney to ensure that health care providers are not limited in the medical information they provide to the agent by the federal Health Insurance Portability and Accountability Act of 1996.

PUBLIC 631 An Act To Amend the Laws Relating to Corporations, Limited LD 1767 EMERGENCY Partnerships, Limited Liability Companies and Limited Liability Partnerships

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORTON	OTP-AM MAJ ONTP MIN	H-771 H-819 NORBERT

Public Law 2003, chapter 631 makes changes to the laws relating to nonprofit corporations, limited partnerships, limited liability companies and limited liability partnerships that are consistent with recent changes made to the business corporation laws in the Maine Revised Statutes, Title 13-C.

Public Law 2003, chapter 631 was enacted as an emergency measure effective April 14, 2004.

Judiciary

PUBLIC 653 An Act To Clarify the Responsibilities under the Adult Protective Services Act LD 1765

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT	OTP-AM	H-887

Public Law 2003, chapter 653 amends the Adult Protective Services Act regarding reporting requirements, the relationship between the Adult Protective Services Act and other state and local laws regarding confidential or privileged information and the types of information the department may receive as part of an investigation or protective proceeding.

Chapter 653 clarifies that federal confidentiality protections supersede conflicting state requirements to report abuse, neglect or exploitation of incapacitated or dependent adults. It abrogates the confidential quality of communications provided by statute with regard to hospitals, health maintenance organizations, dentists and social workers to the extent authorized under federal law in relation to required reporting or cooperating with the department in an investigative or other protective activity.

PUBLIC 658 An Act To Amend the Protection from Harassment Laws LD 1906

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS J	OTP-AM MAJ	H-840
PENDLETON	ONTP MIN	H-889 MILLS J

Public Law 2003, chapter 658 amends the Protection From Harassment laws to remove the requirement that the hearing on the complaint be held within 21 days.

PUBLIC 672 An Act To Promote the Financial Security of Maine's Families and Children LD 1579

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUDLEY	OTP-AM A	H-774
DAGGETT	ONTP B	H-871 MILLS P
	OTP-AM C	

Public Law 2003, chapter 672 provides for domestic partners in certain provisions of the Probate Code governing interstate succession, conservators and guardians, to extend to domestic partners provisions that currently apply

Judiciary

to spouses in the laws governing protective orders and in the laws governing the custody of remains of deceased persons.

Chapter 672 does the following.

1. It defines "domestic partners" as 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.
2. It allows domestic partners to register with the Department of Human Services, Office of Health Data and Program Management, becoming "registered domestic partners."
3. It includes as a requirement that a registered domestic partnership can not be terminated unless both partners consent to the termination or a partner wishing to terminate the partnership provides a written notice, in hand, to the other partner.
4. It requires that the declaration of domestic partnership form must contain a warning in bold type explaining that the declaration may have a significant effect on property or inheritance rights and that registration is not a substitute for a will or a formal partnership agreement.
5. It clarifies that a domestic partner is a person entitled to have priority for appointment as a personal representative, guardian or conservator for an estate or as custodian of the remains of a deceased individual.
6. It clarifies that a registered domestic partner is entitled to priority in case of intestacy of the other registered domestic partner.

PUBLIC 688 An Act To Correct Errors and Inconsistencies in the Laws of MaineLD 1916 EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-907
		H-923 NORBERT
		H-946 NORBERT
		H-947 NORBERT
		H-950 NORBERT
		H-952 NORBERT
		H-953 NORBERT
		S-552 PENDLETON
		S-555 PENDLETON
		S-559 PENDLETON

Public Law 2003, chapter 688 makes technical and substantive corrections to the laws of Maine. Parts A and B make technical corrections.

Part C makes corrections that are or may be considered substantive concerning the following:

Judiciary

1. The authority of family case management officers;
2. Assessments to be paid by certain towns and plantations to the General Fund to support the work of the Maine Land Use Regulation Commission;
3. Changes to Title 12 that Public Law 2003, chapter 614 made to the recodified inland fisheries and wildlife laws;
4. The number of civil jurors;
5. Temporary interim non-administrative space in schools;.
6. Enforcement of Medicaid laws;
7. The reporting period and the reporting date for the reporting of prescription drug marketing costs;
8. Pharmacy benefit managers;
9. The definition of "assisted living services";
10. Violations of motor vehicle inspection standards;
11. The Lincoln and Sagadahoc multicounty jail authority;
12. Adult entertainment ordinances;
13. Certified public accountants; and
14. The name of the Northern Maine General Hospital.

PART D corrects conflicts concerning Pine Tree Development Zones.

PART E includes vintners within the exemption to commingling requirements and handling fee increases.

PART F provides flexibility to the District Court to handle civil and criminal prosecutions of inland fisheries and wildlife violations by authorizing prosecutions in the District Court division nearest the location of the alleged violation.

Park K requires the Department of Human Services to start the rule-making process for the Community Health Access Program no later than January 1, 2007.

Part L changes the definition of "net operating revenue" in the laws governing the hospital tax to provide that bad debts may not be deducted from gross charges in the calculation of net operating revenue.

Part M removes language from the optional form for power of attorney for health care that provides the agent the authority to serve as personal representative for all purposes of the federal Health Insurance Portability and Accountability Act of 1996, also known as "HIPAA."

Part J makes corrections concerning educational technicians.

Judiciary

Part G corrects an erroneous repeal in the utility laws.

Part H repeals a cross-reference and removes a conflict and inconsistent compulsory attendance provision.

Part I provides that benefits for prosthetic devices under health plans issued for use in connection with health savings accounts as authorized under Title XII of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 may be subject to the same deductibles and out-of-pocket limits that apply to overall benefits under the contract.

Public Law 2003, chapter 688 was enacted as an emergency measure effective May 6, 2004, except as otherwise specifically provided.

PUBLIC 709 An Act To Implement the Recommendations of the Committee To LD 1957 Study Compliance with Maine's Freedom of Access Laws

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
		H-866 RINES S-502 PENDLETON

Public Law 2003, chapter 709 is the report of the Joint Standing Committee on Judiciary pursuant to Resolve 2003, chapter 83, which established the Committee to Study Compliance with Maine's Freedom of Access Laws. The study committee submitted its report and presented recommended legislation.

Chapter 709 amends Maine's Freedom of Access laws concerning executive sessions, charges for responding to request for public records and the management and review of exceptions to the definition of "public record." It also extends the work of the Committee to Study Compliance with Maine's Freedom of Access Laws, requiring a report in November 2004.

Chapter 709 amends the executive session law to require that the motion to enter executive session must include a citation of one or more sources of statutory or other authority permitting the executive session for the nature of the business stated in the motion.

The current law on the public's right to inspect and copy public records at the location of the records or the record custodian is repealed and replaced to clarify certain provisions and to ensure reasonable costs for copies of public records. New language is added to clarify that the agency or official must provide the public record requested within a reasonable period of time after the request. Inspection, copying and translation into usable form may be scheduled to occur when the regular activities of the agency or official will not be delayed or inconvenienced. The law is clarified to provide that only a reasonable fee may be charged for copies of public records. New to the law are provisions governing the recoupment of costs of searching for, retrieving and compiling records to satisfy a request. After the first hour of staff time to search for, retrieve and compile records, the agency or official may charge up to \$10 per hour for such staff services for each request. Compiling a public record includes reviewing the record and redacting confidential information.

Chapter 709 requires the Office of Policy and Legal Analysis and the Office of the Revisor of Statutes to produce a bill that lists in the freedom of access laws all the public records exceptions that exist in the Maine Revised

Judiciary

Statutes. Chapter 709 also requires that provisions excepting records from the definition of "public records" be reviewed to determine if the exceptions should be continued, modified or repealed. A cyclical review process is established for a legislative review committee, the joint standing committee of the Legislature having jurisdiction over judiciary matters, to review and evaluate all the identified exceptions at least once every 10 years. Criteria are established for the review and evaluation. The legislative committees of jurisdiction will have an opportunity to participate in the review and evaluation process. The review committee is authorized to report out legislation that carries out the review committee's recommendations to continue, modify or repeal each exception reviewed and evaluated.

Chapter 709 amends Resolve 2003, chapter 83 to extend the reporting date of the Committee to Study Compliance with Maine's Freedom of Access Laws to November 3, 2004. Four additional meetings are authorized. The unexpended balance of the money originally appropriated for the study committee will be used to fund the completion of the study. The duties of the study committee are expanded to include several issues identified by the study committee. The issue of whether public employees' home contact information should be kept confidential, as proposed by Legislative Document 1727, is added as an issue for the study committee to review.